

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§ Group Art Unit: 2193
Barker et al.	§ Confirmation No. 5177
	§ Examiner: Mitchell, Jason D.
Serial No.: 10/047,312	§
	§ Attorney Docket No. RSW920010187US1
	§
Filed: January 14, 2002	§
	§ IBM Corporation
Title: <u>System and Method for Packaging and</u>	§ Intellectual Property Law Dept. T81/503
<u>Installing Management Models with</u>	§ 3039 Cornwallis Road
<u>Specific Console Interfaces</u>	§ Research Triangle Park, NC 27709
	§

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By: /Joseph T. Van Leeuwen, Reg. No. 44,383/	June 6, 2006
Joseph T. Van Leeuwen, Reg. No. 44,383	Date

APPELLANTS' REPLY BRIEF (37 CFR 1.193)

Commissioner for Patents
Mail Stop Appeal Brief—Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants now present this Reply Brief in response to the Examiner's Answer of April 6, 2006 and make the following responses to the Examiner's arguments.

A. APPELLANTS' INDEPENDENT CLAIMS ARE NOT ANTICIPATED AND ARE THEREFORE ALLOWABLE OVER AGNIHOTRI

In the Examiner's Answer, the Examiner states that "any application written to manage a device is necessarily 'derived from management data' related to that device." Appellants respectfully disagree with the Examiner's incredibly broad assertion. The Examiner attempts to

completely ignore key claim limitations included in each of Appellants' claims. As explained in Appellants Appeal Brief, one novel aspect of Appellants' claimed invention is that Appellants' claimed invention derives "plug-in" code files from "management data." Appellants' specification teaches that the "management data" claimed by Appellants is originally stored in a Management Definition Object (MOF) that is transformed into a formatted structure, translated, and the translated construct (which is independent of specific consoles) is finally transformed into executable plug-ins. See Figure 8 of Appellants' application and corresponding text for details on how Appellants' plug-in files are derived from management data. As can plainly be seen by reviewing Appellants' Figure 8, deriving plug-in files as claimed by Appellants is not a trivial endeavor, contrary to the assertions made by the Examiner. Indeed, the Examiner points to no process whatsoever in Agnihotri or any other reference where "plug-in files" are actually derived from "management data," as taught and claimed by Appellants.

Indeed, in the Examiner's Answer the Examiner plainly admits that Agnihotri does not teach or suggest deriving a "plug-in file" from management data, as taught and claimed by Appellants.

While it is acknowledged that Agnihotri does not explicitly disclose a derivation process, to the extent recited in the claims, such a process is inherent in the nature of Agnihotri's 'applet'. (emphasis added)

Appellants note that, for the first time, the Examiner appears to form an "inherency" argument to reject Appellants' claims while at the same time admitting that Agnihotri does not teach each and every element of Appellants' claims as required by MPEP § 2131. The Examiner rejected Appellants claims under 35 U.S.C. § 102 as being anticipated by Agnihotri, and yet now the Examiner admits that Agnihotri does not teach each and every element of Appellants' claims.

For the first time, the Examiner admits that Agnihotri fails to teach or suggest deriving plug-in code files from management data. To circumvent this shortcoming, the Examiner attempts to brush off Appellants' claimed limitations as being trivial and, therefore "inherent" in the teachings of Agnihotri. Appellants note that the Examiner has not satisfied any of the requirements needed to make the Examiner's "inherency" argument. MPEP § 2112 sets forth the requirements needed to be satisfied in order to support the Examiner's "inherency" argument. As

previously described, Appellants' teach "plug-in" files being derived from "management data" throughout their application, and particularly in Figure 8 and the corresponding text. The process shown in Figure 8 is certainly not a "trivial" process, nor is such a process "inherent" as asserted by the Examiner. Appellants show several steps (processes) being performed in order to derive "plug-in" code files from "management data."

MPEP § 2112(IV) provides that the Examiner must provide rationale or evidence tending to show inherency. The only rationale provided by the Examiner is that "Any application written to manage a device is necessarily 'derived from management data' related to that device. In other words, the application would be unable to interface with the device to perform management functions applicable to that device if it were written without knowledge of (not derived from) the management functions the device is capable of (Management Data)." The Examiner's circular reasoning fails because the reference, Agnihotri, does not teach or suggest any derivation process that is used to create Agnihotri's "applets." Instead, Agnihotri is focused on integrating applets into existing Enterprise management consoles, without any teaching or suggestion of how the "applets" are created. Agnihotri does not teach or suggest that the applets are derived from management data. As known by skill to those in the art, applets are small programs that can be written to perform any number of functions. Assuming that Agnihotri's "applets" are "derived" from management data adds detail and functionality to Agnihotri that is simply not taught or suggested by Agnihotri.

As described above, and as further discussed in Appellants' Appeal Brief, and as admitted by the Examiner in the Examiner's Answer, Agnihotri simply does not teach each and every element of Appellants' independent claims as required to support a rejection under 35 U.S.C. § 112. Moreover, as explained in Appellants' Appeal Brief, the prior art cited by the Examiner does not teach or suggest Appellants' dependent claims. Accordingly, each of Appellants' independent claims are allowable over Agnihotri. Each of the remaining claims depends, directly or indirectly, on one of the independent claims and is therefore allowable for at least the same reasons.

Conclusion

For the foregoing reasons, Appellants submit that claims 1, 3-8, 10-15, 17-21, and 25 are patentable over the cited prior art. Accordingly, Appellants respectfully requests that the Examiner's claim rejections be reversed and claims 1, 3-8, 10-15, 17-21, and 25 be allowed.

Respectfully submitted,

By /Joseph T. Van Leeuwen, Reg. No. 44,383/
Joseph T. Van Leeuwen, Reg. No. 44,383
Van Leeuwen & Van Leeuwen
Attorneys for Appellants
Telephone: (512) 301-6738
Facsimile: (512) 301-6742